

EXHIBIT 68

Supplemental Expert Report of Professor Robert H. Topel

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

CUNG LE, et al.,

Plaintiffs,

v.

ZUFFA, LLC d/b/a ULTIMATE
FIGHTING CHAMPIONSHIP and UFC,

Defendants.

Case No. 2:15-cv-01045-RFB-PAL

Professor Robert H. Topel's 26(e) Supplemental Report

July 30, 2018

1. I am Robert H. Topel, the Isidore Brown and Gladys J. Brown Distinguished Service Professor of Economics at The University of Chicago Booth School of Business. I previously submitted reports in this matter on October 27, 2017, February 12, 2018, and May 7, 2018. After submitting those reports, new information became available that affects some of the opinions that I offered in my previous reports. I provide this supplemental report to address this new information.

Bellator and DAZN

2. In June 2018, Bellator, one of Zuffa's competitors, signed a multi-year broadcast distribution deal with DAZN, described as the "world's largest dedicated live sports streaming service," for an amount that exceeds \$100 million.¹ DAZN is owned by Perform Group, whose executive chairman, John Skipper, was formerly the president of ESPN.² This new deal will feature seven exclusive fight cards specifically on DAZN and another 15 which will be simulcast on both DAZN and Bellator's cable broadcasting partner, the Paramount Network.³

3. In my initial report, I explained that "[t]he enormous growth in streaming as an alternative to broadcast TV makes it increasingly likely that successful MMA promoters can bypass broadcast TV and build an audience directly over the internet."⁴ I also explained that "Bellator is a prime example of how new promoters can enter the market and rapidly develop into a significant competitor."⁵ The new distribution deal between Bellator and DAZN provides further support for these opinions.

¹ Bellator Press Release, "Bellator & DAZN Sign Nine-Figure Multi-Year Distribution Deal" (June 26, 2018) available at <http://www.bellator.com/articles/gz0u58/bellator-dazn-sign-nine-figure-multi-year-distribution-deal>; Michael McCarthy, "Streaming giant DAZN aims to fix 'broken' PPV system for U.S. fight fans," *Sporting News* (July 18, 2018) available at <http://www.sportingnews.com/other-sports/news/boxing-mma-news-dazn-live-stream-fights-bellator-anthony-joshua-eddie-hearn-matchroom/3qdbtvdh6czn1x7zmpuyneg72>.

² *Id.*

³ *Id.*

⁴ Expert Report of Professor Robert H. Topel, *Cung Le, et al., v. Zuffa, LLC d/b/a Ultimate Fighting Championship and UFC*, Case No. 2:15-cv-01045-RFB-PAL (D. Nev.) (October 27, 2017) [hereinafter TOPEL REPORT] at ¶ 65.

⁵ *Id.* at ¶ 70.

4. In addition to intensifying competition to sign MMA athletes,⁶ Bellator's agreement with DAZN benefits MMA athletes in other ways. According to Mr. Skipper, the pay-per-view ("PPV") model used in some of UFC's events limits the exposure of athletes who are not featured in these high-profile PPV events.⁷ In contrast, Bellator and DAZN offer MMA athletes exposure on a streaming service for which consumers pay a lower recurring subscription fee rather than paying a higher one-time PPV fee. As I explained in my initial report, the UFC succeeded by building and promoting talent,⁸ and Bellator's agreement with DAZN suggests that other promoters compete with UFC by offering MMA athletes opportunities to develop their notoriety and stature.

Golden Boy MMA

5. In July 2018, it was reported that Oscar De La Hoya's Golden Boy Promotions, one of the world's premiere boxing promotions, will begin promoting MMA events and will broadcast its first MMA event on PPV later this year.⁹ (Among others, Golden Boy is the promoter for well-known boxer Canelo Alvarez, who is the current or former world champion in two weight classes.¹⁰) Golden Boy's first MMA event will feature two well-known former UFC champions and members of UFC's Hall of Fame: Chuck Liddell and Tito Ortiz.¹¹

6. In my initial report, I explained that the entry barriers for MMA promoters are low.¹² As a matter of economics, the competitive pressure placed on incumbents by potential entrants

⁶ Bellator's president, Scott Coker, stated: "The investment will enable us *to continue expanding our roster with free agents* that make sense, so we can put on PPV-worthy fight cards that fans want to see. Plus, on DAZN's worldwide platform, our fights will be seen live for the first time to new audiences around the globe." (*Id.*, emphasis added.)

⁷ *Id.*

⁸ TOPEL REPORT at § III.C.

⁹ Brett Okamoto, "Former UFC stars Chuck Liddell, Tito Ortiz agree to third MMA fight," *ESPN* (July 4, 2018) available at http://www.espn.com/mma/story/_/id/23974326/former-ufc-stars-chuck-liddell-tito-ortiz-agree-third-mma-fight; "De La Hoya Talks Golden Boy MMA," *Fight Sports* (July 26, 2018) available at <http://www.fightsports.tv/de-la-hoya-talks-golden-boy-mma>.

¹⁰ Golden Boy Promotions, "Saul Canelo Alvarez" available at <http://www.goldenboypromotions.com/fighter/saul-alvarez-canelo>.

¹¹ UFC, "UFC Legends Hall of Fame" available at <http://www.ufc.com/fighter/hallOfFame>.

¹² TOPEL REPORT at §§ IV.A and IX.D.

limits the ability of incumbents to raise prices of MMA events above competitive levels, reduce the supply of MMA events below competitive levels, or to lower the compensation of MMA athletes below competitive levels. With low barriers to entry, if an incumbent were to attempt to exercise market power in this way, entrants (or existing competitors who could readily expand) would render such a strategy untenable.¹³

7. In addition to the competitors I discussed in my initial report,¹⁴ the entry of a well-known and established boxing promoter into promoting MMA events is another example of how competitors to UFC can enter the market, sign prominent MMA athletes, secure venues, broadcast events, and compete for athletes and audiences.

Professional Fighters' League Million-Dollar Tournament

8. In June 2018, Professional Fighters' League ("PFL"), formerly known as the World Series of Fighting, launched a million-dollar tournament.¹⁵ In PFL's tournament, 72 MMA athletes from six different weight classes compete to make it into a single-elimination playoff. The event will culminate in championship bouts with a \$1 million prize for each of the six different weight classes, with \$10 million in prize money overall being paid to the participating athletes.¹⁶ PFL has a broadcasting relationship with NBC Sports and Facebook, and held its inaugural event at Hulu Theater at Madison Square Garden in New York.¹⁷

9. One of the core opinions offered by plaintiffs' expert Dr. Hal Singer is that Zuffa's allegedly anticompetitive contracts deprived competitors of "ongoing access to a deep pool of

¹³ U.S. Department of Justice and Federal Trade Commission, *Horizontal Merger Guidelines* (Issued: August 19, 2010) available at <https://www.ftc.gov/sites/default/files/attachments/merger-review/100819hmg.pdf> at § 9.

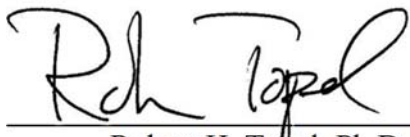
¹⁴ TOPEL REPORT, ¶¶ 69-78.

¹⁵ John Morgan & Matt Erickson, "PFL roster revealed: Six of these 72 fighters will be millionaires by year's end," *MMA Junkie* (Apr. 16, 2018) available at <https://mmajunkie.com/2018/04/professional-fighters-league-exclusive-pfl-roster-reveal-wsof-millionaire-tournament-mma>; John Morgan, "With \$1 million playoff berths on the line, PFL boss expects fireworks for elimination round" *MMA Junkie* (July 17, 2018) available at <https://mmajunkie.com/2018/07/with-1-million-playoff-berths-on-the-line-pfl-boss-expects-fireworks-for-elimination-round>.

¹⁶ *Id.*

¹⁷ *Id.*

talented Fighters [which] is a critical input to the ongoing success of an MMA promotion.”¹⁸ But Dr. Singer’s position is at odds with PFL’s demonstrated ability to assemble a roster of 72 MMA athletes in six different weight classes to participate in a tournament with \$10 million in prize money. That is, despite Dr. Singer’s claims to the contrary, the existence of PFL’s million-dollar tournament is more evidence that UFC’s competitors have access to a “broad stable of MMA Fighters,” which Dr. Singer opines is a “critical input necessary to stage successful Live MMA Events.”¹⁹



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¹⁸ Expert Report of Hal J. Singer, Ph.D., *Cung Le, et al., v. Zuffa, LLC d/b/a Ultimate Fighting Championship and UFC*, Case No. 2:15-cv-01045-RFB-PAL (D. Nev.) (August 31, 2017) at ¶ 158.

¹⁹ *Id.* at ¶ 5.